

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO.2978 OF 2005**

Vicky Ganpat Lad  
vs.  
State of Maharashtra

...Applicant  
  
...Respondent

Mr.Manoj J. Bhatt for the Applicant  
Mr.R.Y.Mirza,A.P.P. for State

**CORAM: A.S.OKA,J.  
DATE : JUNE 9,2005.**

**P.C.:**

1. Heard learned Counsel appearing for the parties. An offence has been registered against the Applicant punishable under Section 302 read with Section 34 of Indian Penal Code at Kapurbawadi Police Station, Thane. Application for bail made by the Applicant has been rejected by this court by order dated 11th January 2005. While rejecting the Application on merits, this Court observed that the Sessions Judge, Thane will assign the case to the Fast Track Court to ensure early disposal of the trial. A case made out in this Application is that the Applicant is suffering from serious ailment for which he is required to be immediately operated upon. By order dated 5th May 2005 this Court granted relief in terms of prayer clause (b) by directing the Superintendent of Jail to produce the Applicant before the Civil Surgeon, Civil Hospital, Thane for the purposes of medical opinion. A report dated 19th May 2005 has been submitted by the Civil Surgeon along with xerox copies of case paper and reports of various tests. The Civil Surgeon after examining the Applicant has

opined that he is suffering from (Lt) side Epididymorchitis. His blood reports and ultra sonography Abddominal & Scrotum is normal. No other surgical disease found. For (Lt) side Epididymorchitis he requires only medical treatment, no surgery is required." Thus the opinion of the Civil Surgeon is that no surgery is required.

2. The learned Counsel for the Applicant after perusing the report of the Civil Surgeon submitted that the Applicant should be sent to a private Medical Practitioner for the second opinion. He submitted that though the trial was ordered to be expedited, there is no progress in the trial. He therefore submitted that the Applicant deserves to be enlarged on bail.

3. The learned A.P.P. submitted that the next date fixed for the trial is 16th June 2005 and the prosecution desires to examine eight witnesses. He submitted that the prosecution will cooperate with the learned Trial Judge for expeditious disposal of the case.

4. The application for bail has been rejected earlier by this Court on merits. One of the grounds in this Application is that the Applicant requires immediate surgery and the said ground cannot be accepted in the face of the report of the Civil Surgeon. there is no reason to disbelieve the opinion of the Civil Surgeon. Therefore, the Applicant cannot be enlarged on bail on the ground that immediate surgery is required. In the earlier order of this Court the only direction given is for assigning the case to the Fast Track

Court for early disposal. The said direction was given on 11th January 2005. As no progress is made till today, time bound programme will have to be fixed for disposal of the trial.

5. It is needless to say that considering the report of the Civil Surgeon, arrangements will have to be made for providing necessary treatment to the Applicant in the Civil Hospital, Thane.

6. Hence I pass the following order :

i) Application is rejected.

ii) The learned Trial Judge will conclude the trial as expeditiously as possible and preferably on or before 30th November 2005. The State will cooperate with the learned Trial Judge in early disposal of the case.

iii) If the trial cannot be disposed of within the stipulated period due to default on the part of the prosecution, liberty to the Applicant to apply for bail to the concerned Court on that ground.

iv) Application is disposed of in above terms.

**JUDGE**